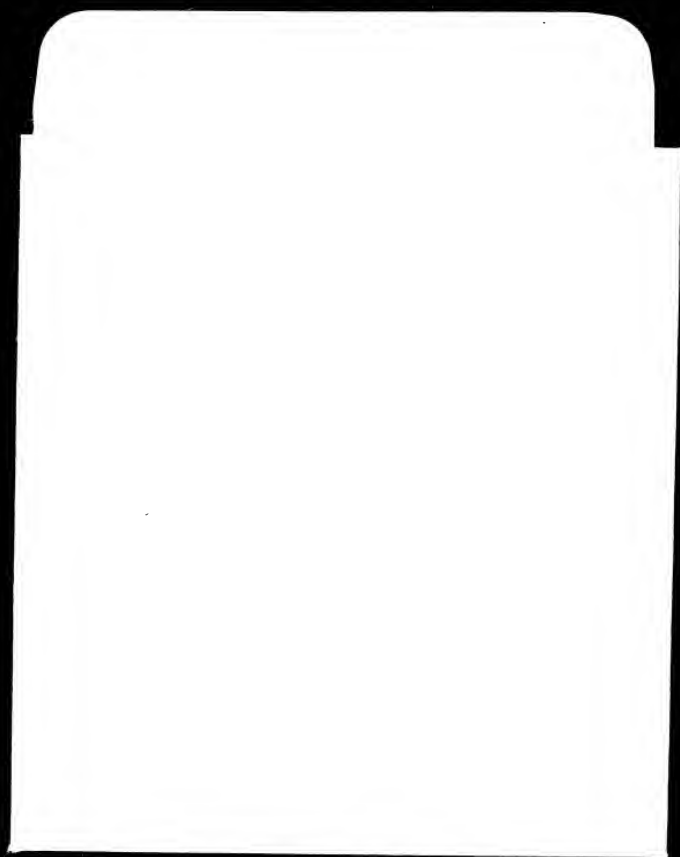


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**Thomas Hutchinson's
Strictures upon the
Declaration of the
Congress at
Philadelphia**




Thomas Hutchinson's
*Strictures
upon the
Declaration
of the
Congress at Philadelphia;
In a Letter to a Noble Lord, &c.*
(London, 1776)

Edited by MALCOLM FREIBERG



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INTRODUCTION

ONE spring day in 1776 an American acquaintance found Thomas Hutchinson of Massachusetts alone in his London lodgings studying a recent tract entitled *An Inquiry whether Great Britain or America is most in fault*. If the old governor's reading matter did not answer the question for him, the arrival of a copy of the Declaration of Independence did. "The Congress," he wrote early in August of that year, "have published a most infamous paper reciting a great number of pretended tyrannical deeds of the King and declaring their Independence." When the *Public Advertiser* printed the text of the Declaration a week later, he commented, "The reasons for their Rebellion would appear to the last degree frivolous if the facts upon which they are founded were fully known."¹

To expose the "frivolous" American philosophy of revolution Hutchinson wrote the following pamphlet. Although it was unsigned, bookmen from that day to this have correctly attributed authorship to him.² It is now possible to identify the "Noble Lord" of the title page as Philip Yorke, second Earl of Hardwicke, English man of letters, politician, and correspondent of Hutchinson's. A few weeks after publication Hutchinson wrote that it would have been conceited of him "to have mentioned in print" the honor of Hardwicke's friendship, adding that he thought better of his "bagatelle" now that he knew the Earl's favorable opinion of it. Others in England also thought well of it then: Lord North, who asked Hutchinson point-blank if he were the author; Welbore Ellis, who advised him to send a copy to George III; and John Almon, who republished it in *The Remembrancer, Part III, for the Year 1776* (London, 1777), pp. 25-42.³

¹ *The Journal and Letters of Samuel Curwen, an American in England, from 1775 to 1783*, ed. George A. Ward, 4th ed. (Boston, 1864), p. 53; Thomas Hutchinson to the Earl of Hardwicke, [London], August 10, 16, 1776, British Museum, Additional Manuscripts 35,427 (Massachusetts Historical Society microfilm), 94, 98.

² Hutchinson's presentation copy "To Sir Francis Bernard Baronet From the Author" is in the Cornell University Library; his personal copy is in the Chapin Library, Williams College.

³ Hutchinson to Hardwicke, [London], November 3, 1776, B. M., Add.

In America Hutchinson's point for point disagreement with the Declaration was quickly forgotten (if indeed it was ever known here). The generation that won its independence wasted little time on those who had seen only frivolity in rebellion, and later generations were busy at other tasks. So the *Strictures* achieved only bibliographical security. Its present reprinting, from the Massachusetts Historical Society copy, indicates that here as elsewhere Hutchinson could be occasionally wrong, often devastating, and always spirited.

MALCOLM FREIBERG

MSS 35,427, 124; *The Diary and Letters of his Excellency Thomas Hutchinson, Esq.*, ed. Peter O. Hutchinson, 2 vols. (London, 1883-1886), II, 112-113. Hutchinson's answer to North's question is not recorded either in the printed version or in the manuscript original of it in B. M., Egerton MSS 2,663 (Massachusetts Historical Society microfilm), 104 verso.

A LETTER to a NOBLE LORD, &c.

MY LORD,

THE last time I had the honour of being in your Lordships company, you observed that you was utterly at a loss to what facts many parts of the Declaration of Independence published by the Philadelphia Congress referred, and that you wished they had been more particularly mentioned, that you might better judge of the grievances, alledged as special causes of the separation of the Colonies from the other parts of the Empire. This hint from your Lordship induced me to attempt a few Strictures upon the Declaration. Upon my first reading it, I thought there would have been more policy in leaving the World altogether ignorant of the motives to this Rebellion, than in offering such false and frivolous reasons in support of it; and I flatter myself, that before I have finished this letter, your Lordship will be of the same mind. But I beg leave, first to make a few remarks upon its rise and progress.

I have often heard men (who I believe were free from party influence) express their wishes, that the claims of the Colonies to an exemption from the authority of Parliament in imposing Taxes had been conceded; because they had no doubts that America would have submitted in all other cases; and so this unhappy Rebellion, which has already proved fatal to many hundreds of the Subjects of the Empire, and probably will to many thousands more, might have been prevented.

The Acts for imposing Duties and Taxes may have accelerated the Rebellion, and if this could have been foreseen, perhaps, it might have been good policy to have omitted or deferred them; but I am of opinion, that if no Taxes or Duties had been laid upon the Colonies, other pretences would have been found for exception to the authority of Parliament. The body of the people in the Colonies, I know, were easy and quiet. They felt no burdens. They were attached, indeed, in every Colony to their own particular Constitutions, but the Supremacy of Parliament over the whole gave them no concern. They had been happy under it for an hundred years past: They feared no imaginary evils for an hundred years to come. But there were men in each of the prin-

cipal Colonies, who had Independence in view, before any of those Taxes were laid, or proposed, which have since been the ostensible cause of resisting the execution of Acts of Parliament. Those men have conducted the Rebellion in the several stages of it, until they have removed the constitutional powers of Government in each Colony, and have assumed to themselves, with others, a supreme authority over the whole.

Their designs of Independence began soon after the reduction of Canada, relying upon the future cession of it by treaty. They could have no other pretence to a claim of Independence, and they made no other at first, than what they called the natural rights of mankind, to chuse their own forms of Government, and to change them when they please. This, they were soon convinced, would not be sufficient to draw the people from their attachment to constitutions under which they had so long been easy and happy: Some grievances, real or imaginary, were therefore necessary. They were so far from holding Acts for laying Duties to be unconstitutional, and, as has been since alledged, meer nullities, that in Massachuset's Bay the General Assembly, about the year 1762, ordered an Action to be brought against the Officers of the Customs, for charges made in the Court of Admiralty, which had caused a diminution of the part of forfeitures to the Province, by virtue of what is called the Sugar Act, passed in the sixth year of George the Second. Surely they would not deny the authority of Parliament to lay the Duty, while they were suing for their part of the penalty for the non-payment of it.

Their first attempt was against the Courts of Admiralty, which they pronounced unconstitutional, whose judgments, as well as jurisdiction, they endeavoured to bring into examen before the Courts of Common Law, and a Jury chosen from among the people: About the same time, a strong opposition was formed against Writs of Assistants, granted to the Officers of the Customs by the Supreme Courts, and this opposition finally prevailed in all the Colonies, except two or three, against, and in defiance of, an Act of Parliament which required the supreme Courts to grant these writs.

It does not, however, appear that there was any regular plan formed for attaining to Independence, any further than that every

fresh incident which could be made to serve the purpose, by alienating the affections of the Colonies from the Kingdom, should be improved accordingly. One of these incidents happened in the year 1764. This was the Act of Parliament for granting certain duties on goods in the British Colonies, for the support of Government, &c. At the same time a proposal was made in Parliament, to lay a stamp duty upon certain writings in the Colonies; but this was deferred until the next Session, that the Agents of the Colonies might notify the several Assemblies in order to their proposing any way, to them more eligible, for raising a sum for the same purpose with that intended by a stamp duty. The Colony of Massachuset's Bay was more affected by the Act for granting duties, than any other Colony. More molasses, the principal article from which any duty could arise, was distilled into spirits in that Colony than in all the rest. The Assembly of Massachuset's Bay, therefore, was the first that took any publick notice of the Act, and the first which ever took exception to the right of Parliament to impose Duties or Taxes on the Colonies, whilst they had no representatives in the House of Commons. This they did in a letter to their Agent in the summer of 1764, which they took care to print and publish before it was possible for him to receive it. And in this letter they recommend to him a pamphlet, wrote by one of their members, in which there are proposals for admitting representatives from the Colonies to sit in the House of Commons.

I have this special reason, my Lord, for taking notice of this Act of the Massachuset's Assembly; that though an American representation is thrown out as an expedient which might obviate the objections to Taxes upon the Colonies, yet it was only intended to amuse the authority in England; and as soon as it was known to have its advocates here, it was renounced by the Colonies, and even by the Assembly of the Colony which first proposed it, as utterly impracticable. In every stage of the Revolt, the same disposition has always appeared. No precise, unequivocal terms of submission to the authority of Parliament in any case, have ever been offered by any Assembly. A concession has only produced a further demand, and I verily believe if every thing had been granted short of absolute Independence, they would not have been contented; for this was the object from the

beginning. One of the most noted among the American clergy, prophesied eight years ago, that within eight years from that time, the Colonies would be formed into three distinct independent Republics, Northern, Middle and Southern. I could give your Lordship many irrefragable proofs of this determined design, but I reserve them for a future letter, the subject of which shall be the rise and progress of the Rebellion in each of the Colonies.

Soon after the intention of raising monies in America for the purpose of a revenue was known, the promoters of Independence, and Revolt, settled certain principles of polity, such as they thought would be best adapted to their purpose.

"The authority of Parliament over the Colonists ceased upon their leaving the Kingdom. Every degree of subjection is therefore voluntary, and ought to continue no longer than the authority shall be for the public good.

"If there had been no express *compact* by charters, or implied by submitting to be governed under Royal Commissions, the Colonists would be under no obligations to acknowledge the King of Great Britain as their Sovereign, and this obligation must cease when he shall cease to perform his part of the conditions of the compact.

"As every Colony, by charters or by Royal Commissions, was constituted with special legislative powers to raise monies by Taxes, Duties, &c. no monies ought to be raised from the inhabitants, by any other powers than the several respective legislatures.

"As the Colonies were settled by encouragement from, and some at great expence of, the Kingdom, and principally for commercial purposes, subjection to *necessary* and *reasonable* Acts for regulating commerce ought to be specially acknowledged.

"Other Acts to be submitted to, or not, as they may, or may not, be for the benefit of the Colonies."

These principles of Government in Colonies must soon work an Independence.

To carry them to effect, Confederacies were formed by the chiefs of the revolvers in each Colony; and Conventions were held by Delegates when judged necessary: Subjects for controversy in opposition to Government were sought for in each of the Colonies, to irritate and inflame the minds of the people, and

dispose them to revolt: Dissentions and commotions in any Colony, were cherished and increased, as furnishing proper matter to work upon: For the same purpose, fictitious letters were published, as having been received from England, informing of the designs of ministry, and even of Bills being before the Parliament for introducing into the Colonies arbitrary Government, heavy Taxes and other cruel oppressions: Every legal measure for suppressing illicit trade was represented as illegal and grievous; and the people were called upon to resist it: A correspondence was carried on with persons in England, promoters of the revolt, whose intelligence and advice from time to time were of great use: Persons in England of superior rank and characters, but in opposition to the measures of administration, were courted and deceived, by false professions; and the real intentions of the revolvers were concealed: The tumults, riots, contempt and defiance of law in England, were urged to encourage and justify the like disorders in the Colonies, and to annihilate the powers of Government there.

Many thousands of people who were before good and loyal subjects, have been deluded, and by degrees induced to rebel against the best of Princes, and the mildest of Governments.

Governors, and other servants of the Crown, and Officers of Government, with such as adhered to them, have been removed and banished under pretence of their being the instruments of promoting ministerial tyranny and arbitrary power; and finally the people have subjected themselves to the most cruel oppressions of fifty or sixty Despots.

It will cause greater prolixity to analyze the various parts of this Declaration, than to recite the whole. I will therefore present it to your Lordship's view in distinct paragraphs, with my remarks, in order as the paragraphs are published.

In Congress, July 4, 1776.

A Declaration by the Representatives of the United States of America in General Congress assembled.

When in the course of human events it becomes necessary for one People to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the laws of na-

ture and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self evident—That all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness, that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; and whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence indeed will dictate that governments long established, should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these Colonies, and such is now the necessity which constrains them to alter their former systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having its direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

They begin, my Lord, with a false hypothesis, That the Colonies are one *distinct people*, and the kingdom another, connected by *political bands*. The Colonies, *politically* considered, never were a *distinct* people from the kingdom. There never has been but one *political* band, and that was just the same before the first Colonists emigrated as it has been ever since, the Supreme Legislative Authority, which hath essential right, and is indispensably bound to keep all parts of the Empire entire, until there may be a separation consistent with the general good of the Empire, of which good, from the nature of government, this authori-

ty must be the sole judge. I should therefore be impertinent, if I attempted to shew in what case a *whole people* may be justified in rising up in oppugnation to the powers of government, altering or abolishing them, and substituting, in whole or in part, new powers in their stead; or in what sense all men are created equal; or how far life, liberty, and the *pursuit of happiness* may be said to be unalienable; only I could wish to ask the Delegates of Maryland, Virginia, and the Carolinas, how their Constituents justify the depriving more than an hundred thousand Africans of their rights to liberty, and the *pursuit of happiness*, and in some degree to their lives, if these rights are so absolutely unalienable; nor shall I attempt to confute the absurd notions of government, or to expose the equivocal or inconclusive expressions contained in this Declaration; but rather to shew the false representation made of the facts which are alledged to be the evidence of injuries and usurpations, and the special motives to Rebellion. There are many of them, with design, left obscure; for as soon as they are developed, instead of justifying, they rather aggravate the criminality of this Revolt.

The first in order, *He has refused his assent to laws the most wholesome and necessary for the public good*; is of so general a nature, that it is not possible to conjecture to what laws or to what Colonies it refers. I remember no laws which any Colony has been restrained from passing, so as to cause any complaint of grievance, except those for issuing a fraudulent paper-currency, and making it a legal tender; but this is a restraint which for many years past has been laid on Assemblies by an act of Parliament, since which such laws cannot have been offered to the King for his allowance. I therefore believe this to be a general charge, without any particulars to support it; fit enough to be placed at the head of a list of imaginary grievances.

The laws of England are or ought to be the laws of its Colonies. To prevent a deviation further than the local circumstances of any Colony may make necessary, all Colony laws are to be laid before the King; and if disallowed, they then become of no force. Rhode-Island, and Connecticut, claim by Charters, an exemption from this rule, and as their laws are never presented to the King, they are out of the question. Now if the King is to approve of all laws, or which is the same thing, of all which the

people judge for the public good, for we are to presume they pass no other, this reserve in all Charters and Commissions is futile. This charge is still more inexcusable, because I am well informed, the disallowance of Colony laws has been much more frequent in preceding reigns, than in the present.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and when so suspended, he has utterly neglected to attend them.

Laws, my Lord, are in force in the Colonies, as soon as a Governor has given his assent, and remain in force until the King's disallowance is signified. Some laws may have their full effect before the King's pleasure can be known. Some may injuriously affect the property of the subject; and some may be prejudicial to the prerogative of the Crown, and to the trade, manufactures and shipping of the kingdom. Governors have been instructed, long before the present or the last reign, not to consent to such laws, unless with a clause suspending their operations until the pleasure of the King shall be known. I am sure your Lordship will think that nothing is more reasonable. In Massachusetts Bay, the Assembly would never pass a law with a suspending clause. To pass laws which must have their whole operation, or which must cause some irreparable mischief before the King's pleasure can be known, would be an usurpation of the People upon the Royal Prerogative: To cause the operation of such laws to be suspended until the King can signify his pleasure by force of instructions, similar to what has been given in all former Reigns, can never be charged as an usurpation upon the rights of the People.

I dare say, my Lord, that if there has ever been an instance of any laws lying longer than necessary before the King's pleasure has been signified, it has been owing to inattention in some of the servants of the Crown, and that upon proper application any grievance would have been immediately redressed.

He has refused to pass other laws for accommodation of large districts of People, unless those People would relinquish the rights of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

We shall find, my Lord, that Massachusetts Bay is more

concerned in this Declaration than any other Colony. This article respects that Colony alone. By its charter, a legislature is constituted: The Governor is appointed by the King.—The Council, consisting of twenty-eight members, were appointed, in the first instance, by the King, but afterwards are to be elected annually by the two Houses—The House of Representatives is to consist of two members elected annually by each town, but the number of the House is nevertheless made subject to future regulations by acts of the General Assembly. Besides the Council, the Civil Officers of the Government are also to be annually elected by the two Houses. It appeared in a course of years, that by multiplying towns, the House of Representatives had increased to double the number of which it consisted at first. Their importance in all elections was increased in proportion; for the number of the Council continued the same as at first. To prevent further deviation from the spirit of the Charter, an instruction was then first given to the Governors, not to consent to laws for making new towns so as to increase the number of the House, unless there should be a clause in the law to suspend its operation, until the King signifies his pleasure upon it. But here, my Lord, lies the most shameful falsity of this article. No Governor ever refused to consent to a law for making a new town, even without a suspending clause, if provision was made that the inhabitants of the new town should continue to join with the old, or with any other town contiguous or near to it, in the choice of Representatives; so that there never was the least intention to deprive a single inhabitant of the right of being represented; and, in fact, such provision has ever been made, except where the inhabitants of the new town chose to forego the right, which we must suppose they did not think *inestimable*, rather than pay the wages of their Representatives. This has been the case in several instances, and it is notorious that the Assembly of that Province have made it their practice, from year to year, to lay fines on their towns for not chusing Representatives. This is a wilful misrepresentation made for the sake of the brutal insult at the close of the article.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into a compliance with his measures.

To the same Colony this article also has respect. Your Lordship must remember the riotous, violent opposition to Government in the Town of Boston, which alarmed the whole Kingdom, in the year 1768. Four Regiments of the King's forces were ordered to that Town, to be aiding to the Civil Magistrate in restoring and preserving peace and order. The House of Representatives, which was then sitting in the Town, remonstrated to the Governor against posting Troops there, as being an invasion of their rights. He thought proper to adjourn them to Cambridge, where the House had frequently sat at their own desire, when they had been alarmed with fear of the small pox in Boston; the place therefore was not unusual. The public rooms of the College, were convenient for the Assembly to sit in, and the private houses of the Inhabitants for the Members to lodge in; it therefore was not *uncomfortable*. It was within four miles of the Town of Boston, and less *distant* than any other Town fit for the purpose.

When this step, taken by the Governor, was known in England, it was approved, and conditional instructions were given to continue the Assembly at Cambridge. The House of Representatives raised the most frivolous objections against the authority of the Governor to remove the Assemb[ly] from Boston, but proceeded, nevertheless, to the business of the Session as they used to do. In the next Session, without any new cause, the Assembly refused to do any business unless removed to Boston. This was making themselves judges of the place, and by the same reason, of the time of holding the Assembly, instead of the Governor, who thereupon was instructed not to remove them to Boston, so long as they continued to deny his authority to carry them to any other place.

They *fatigued* the Governor by adjourning from day to day, and refusing to do business one Session after another, while he gave his constant attendance to no purpose; and this they make the King's *fatiguing* them to compel them to comply with his measures.

A brief narrative of this unimportant dispute between an American Governor and his Assembly, needs an apology to your Lordship; how ridiculous then do those men make themselves, who offer it to the world as a ground to justify Rebellion?

He has dissolved Representatives Houses repeatedly for opposing with manly firmness his Invasions on the Rights of the People.

Contentions between Governors and their Assemblies have caused dissolutions of such Assemblies, I suppose, in all the Colonies, in former as well as later times. I recollect but one instance of the dissolution of an Assembly by special order from the King, and that was in Massachuset's Bay. In 1768, the House of Representatives passed a vote or resolve, in prosecution of the plan of Independence, incompatible with the subordination of the Colonies to the supreme authority of the Empire; and directed their Speaker to send a copy of it in circular letters to the Assemblies of the other Colonies, inviting them to avow the principles of the resolve, and to join in supporting them. No Government can long subsist, which admits of combinations of the subordinate powers against the supreme. This proceeding was therefore, justly deemed highly unwarrantable; and indeed it was the beginning of that unlawful confederacy, which has gone on until it has caused at least a temporary Revolt of all the Colonies which joined in it.

The Governor was instructed to require the House of Representatives, in their next Session to rescind or disavow this resolve, and if they refused, to dissolve them, as the only way to prevent their prosecuting the plan of Rebellion. They delayed a definitive answer, and he indulged them, until they had finished all the business of the Province, and then appeared this *manly firmness* in a rude answer and a peremptory refusal to comply with the King's demand. Thus, my Lord, the regular use of the prerogative in suppressing a begun Revolt, is urged as a grievance to justify the Revolt.

He has refused for a long time after such dissolutions to cause others to be erected whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the mean time exposed to all the dangers of invasions from without and convulsions within.

This is connected with the last preceding article, and must relate to the same Colony only; for no other ever presumed, until the year 1774, when the general dissolution of the established government in all the Colonies was taking place, to convene an

Assembly, without the Governor, by the meer act of the People.

In less than three months after the Governor had dissolved the Assembly of Massachuset's Bay, the town of Boston, the first mover in all affairs of this nature, applied to him to call another Assembly. The Governor thought he was the judge of the proper time for calling an Assembly, and refused. The town, without delay, chose their former members, whom they called a *Committee*, instead of Representatives; and they sent circular letters to all the other towns in the Province inviting them to chuse *Committees* also; and all these *Committees* met in what they called a *Convention*, and chose the Speaker of the last house their *Chairman*. Here was a House of Representatives in every thing but name; and they were proceeding upon business in the town of Boston, but were interrupted by the arrival of two or three regiments, and a spirited message from the Governor, and in two or three days returned to their homes.

This vacation of three months was the *long time* the people waited before they exercised their unalienable powers; the *Invasions from without* were the arrival or expectation of three or four regiments sent by the King to aid the Civil Magistrate in preserving the peace; and the *Convulsions within* were the tumults, riots and acts of violence which this Convention was called, not to suppress but to encourage.

He has endeavoured to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

By this and the next article, we have a short relief from the Province of Massachuset's Bay. I cannot conceive that the subjects in the Colonies would have had any cause of complaint if there never had been any encouragement given to foreigners to settle among them; and it was an act of meer favour to the Colonies which admitted foreigners to a claim of naturalization after a residence of seven years. How has the King obstructed the operation of this act? In no other way than by refusing his assent to colony acts for further encouragement. Nothing can be more regular and constitutional. Shall any other than the supreme authority of the Empire judge upon what terms foreigners may be admitted to the privilege of natural born sub-

jects? Parliament alone may pass acts for this purpose. If there had been further conditions annexed to the grants of unappropriated lands, than have ever yet been, or even a total restriction of such grants when the danger of Revolt was foreseen, it might have been a prudent measure; it certainly was justifiable, and nobody has any right to complain.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

I was, my Lord, somewhat at a loss, upon first reading this article, to what transaction or to what Colony it could refer. I soon found, that the Colony must be North Carolina; and that the transaction, referred to, is a reproach upon the Colony, which the Congress have most wickedly perverted to cast reproach upon the King.

In most, if not all, of the Colonies, laws have passed to enable creditors to attach the effects of absent or absconding debtors; and to oblige the trustees of such debtors to disclose upon oath the effects in their hands; and also all persons indebted to them to disclose the debts. Whatever these laws may have been in their original intention, they have proved most iniquitous in their operation. The creditors, who first come to the knowledge of any effects, seize them to the exclusion even of the other creditors in the Colony; and the creditors in England, or at the greatest distance, stand still a worse chance. I have known in some Colonies, instances of attachments of the effects of bankrupts in England, which by force of these laws have been made, by the American creditors, to the full satisfaction of their debts, when the creditors in England have received a few shillings only in the pound. This frustrates our own bankrupt laws. I believe they have never had any equitable bankrupt laws in any Colony, of any duration: In New York, they have done more towards them than in any other Colony.

These laws for attachments in most of the Colonies were temporary. The Governors were very properly instructed not to consent to the revival of them, or not without a suspending clause. In North Carolina, the law for attachments was tacked to, or was part of, the same law which established their Courts of Justice. The Governor, as he ought to have done if he had received no instruction, refused a bill for reviving the law, because the provi-

sion for attachments was part of it: The Assembly refused to pass the bill without the provision, and in this way determined they would have no Courts of Justice, unless they were such as should be bound to support these iniquitous attachments, peculiarly injurious to British and other distant creditors, and very unequal to the creditors within the Colony.

All this was fully known to the Congress, who, notwithstanding, have most falsely represented the regular use of the prerogative to prevent injustice, as an obstruction to the administration of justice.

He has made Judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

The Americans claim a right to the English constitution and laws, as they stood when the Colonies were planted. The Judges of England were then dependent on the Crown for their continuance in office, as well as for their salaries. The Judges in America, except in the Charter-Colonies, have always been dependent on the Crown for their continuance in office; and, in some Colonies, the salaries of the Chief Justice, and sometimes of the other Judges, have been paid by the Crown, and the Colonies have considered it as an act of favour shewn them.

There has been a change in the constitution of England in respect of the tenure of the office of the Judges. How does this give a claim to America? It will be said, the reason in both cases is the same. This will not be allowed, and until the King shall judge it so, there can be no room for exception to his retaining his prerogative.

And for the salaries, they are *fixed* and do not depend upon the behaviour of the Judges, nor have there ever been any instances of salaries being with-held. If the Assemblies in the Colonies would have *fixed* the like salaries on their Judges, no provision would ever have been made by the Crown; it being immaterial by whom the salary is paid, provided the payment be made sure and certain.

This is a complaint against the King, for not making a change in the constitution of the Colonies, though there is not so much as a pretence that there has been the least grievance felt in any Colony for want of this change; nor has there been any complaint even of danger, in any Colony, except Massachusetts Bay.

He has erected a Multitude of new offices and sent hither Swarms of officers, to harrass our people and eat out their subsistence.

I know of no new offices erected in America in the present reign, except those of the Commissioners of the Customs and their dependents. Five Commissioners were appointed, and four Surveyors General dismissed; perhaps fifteen or twenty clerks and under officers were necessary for this board more than the Surveyors had occasion for before: Land and tide waiters, weighers &c. were known officers before; the Surveyors used to encrease or lessen the number as the King's service required, and the Commissioners have done no more. Thirty or forty additional officers in the whole Continent, are the Swarms which eat out the subsistence of the boasted number of three millions of people.

Cases had often happened in America, which Surveyors General had not authority to decide. The American merchants complained of being obliged to apply to the Commissioners of the Customs in London. The distance caused long delay, as well as extraordinary charge. A Board in America, was intended to remove the cause of these complaints, as well as to keep the inferior officers of the Customs to their duty. But no powers were given to this Board more than the Commissioners in London had before; and none but illicit traders ever had any reason to complain of grievances; and they of no other than of being better watched than they had ever been before. At this time, the authority of Parliament to pass Acts for regulating commerce was acknowledged, but every measure for carrying such Acts into execution was pronounced an injury, and usurpation, and all the effects prevented.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

This is too nugatory to deserve any remark. He has kept no armies among them without the consent of the Supreme Legislature. It is begging the question, to suppose that this authority was not sufficient without the aid of their own Legislatures.

He has affected to render the Military independent of, and superior to, the Civil Power.

When the subordinate Civil Powers of the Empire became

Aiders of the people in acts of Rebellion, the King, as well he might, has employed the Military Power to reduce those rebellious Civil Powers to their constitutional subjection to the Supreme Civil Power. In no other sense has he ever *affected* to render the Military independent of, and superior to, the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our Laws; giving his assent to their pretended Acts of Legislation.

This is a strange way of defining the part which the Kings of England take in conjunction with the Lords and Commons in passing Acts of Parliament. But why is our present Sovereign to be distinguished from all his predecessors since Charles the Second? Even the Republic which they affect to copy after, and Oliver, their favourite, because an Usurper, *combined* against them also. And then, how can a jurisdiction submitted to for more than a century be *foreign* to their constitution? And is it not the grossest prevarication to say this jurisdiction is *unacknowledged* by their laws, when all Acts of Parliament which respect them, have at all times been their rule of law in all their judicial proceedings? If this is not enough; their own subordinate legislatures have repeatedly in addresses, and resolves, in the most express terms *acknowledged* the supremacy of Parliament; and so late as 1764, before the conductors of this Rebellion had settled their plan, the House of Representatives of the leading Colony made a public declaration in an address to their Governor, that, although they humbly apprehended they might propose their objections, to the late Act of Parliament for granting certain duties in the British Colonies and Plantations in America, yet they at the same time, *acknowledged* that it was their duty to yield obedience to it while it continued unrepealed.

If the jurisdiction of Parliament is foreign to their Constitution, what need of specifying instances, in which they have been subjected to it? Every Act must be an usurpation and injury. They must then be mentioned, my Lord, to shew, hypothetically, that even if Parliament had jurisdiction, such Acts would be a partial and injurious use of it. I will consider them, to know whether they are so or not.

For quartering large bodies of armed troops among us.

When troops were employed in America, in the last reign, to protect the Colonies against French invasion, it was necessary to provide against mutiny and desertion, and to secure proper quarters. Temporary Acts of Parliament were passed for that purpose, and submitted to in the Colonies. Upon the peace, raised ideas took place in the Colonies, of their own importance, and caused a reluctance against Parliamentary authority, and an opposition to the Acts for quartering troops, not because the provision made was in itself unjust or unequal, but because they were Acts of a Parliament whose authority was denied. The provision was as similar to that in England as the state of the Colonies would admit.

For protecting them by a mock trial from punishment, for any murder which they should commit on the Inhabitants of these States.

It is beyond human wisdom to form a system of laws so perfect as to be adapted to all cases. It is happy for a state, that there can be an interposition of legislative power in those cases, where an adherence to established rules would cause injustice. To try men before a biassed and pre-determined Jury would be *a mock trial*. To prevent this, the Act of Parliament, complained of, was passed. Surely, if in any case Parliament may interpose and alter the general rule of law, it may in this. America has not been distinguished from other parts of the Empire. Indeed, the removal of trials for the sake of unprejudiced disinterested Juries, is altogether consistent with the spirit of our laws, and the practice of courts in changing the venue from one county to another.

For cutting off our trade with all parts of the world.

Certainly, my Lord, this could not be a *cause* of Revolt. The Colonies had revolted from the Supreme Authority, to which, by their constitutions, they were subject, before the Act passed. A Congress had assumed an authority over the whole, and had rebelliously prohibited all commerce with the rest of the Empire. This act, therefore, will be considered by the *candid world*, as a proof of the reluctance in government against what is the dernier resort in every state, and as a milder measure to bring the Colonies to a re-union with the rest of the Empire.

For imposing taxes on us without our consent.

How often has your Lordship heard it said, that the Americans are willing to submit to the authority of Parliament in all cases except that of taxes? Here we have a declaration made to the world of the causes which have impelled to a separation. We are to presume that it contains all which they that publish it are able to say in support of a separation, and that if any one cause was distinguished from another, special notice would be taken of it. That of taxes seems to have been in danger of being forgot. It comes in late, and in as slight a manner as is possible. And, I know, my Lord, that these men, in the early days of their opposition to Parliament, have acknowledged that they pitched upon this subject of taxes, because it was most alarming to the people, every man perceiving immediately that he is personally affected by it; and it has, therefore, in all communities, always been a subject more dangerous to government than any other, to make innovation in; but as their friends in England had fell in with the idea that Parliament could have no right to tax them because not represented, they thought it best it should be believed they were willing to submit to other acts of legislation until this point of taxes could be gained; owning at the same time, that they could find no fundamentals in the English Constitution, which made representation more necessary in acts for taxes, than acts for any other purpose; and that the world must have a mean opinion of their understanding, if they should rebel rather than pay a duty of three-pence *per* pound on tea, and yet be content to submit to an act which restrained them from making a nail to shoe their own horses. Some of them, my Lord, imagine they are as well acquainted with the nature of government, and with the constitution and history of England, as many of their partisans in the kingdom; and they will sometimes laugh at the doctrine of fundamentals from which even Parliament itself can never deviate; and they say it has been often held and denied merely to serve the cause of party, and that it must be so until these unalterable fundamentals shall be ascertained; that the great Patriots in the reign of King Charles the Second, Lord Russell, Hampden, Maynard, &c. whose memories they reverence, declared their opinions, that there were no bounds to the power of Parliament by any fundamentals whatever, and that even the hereditary succession to the Crown might be, as it since has

been, altered by Act of Parliament; whereas they who call themselves Patriots in the present day have held it to be a fundamental, that there can be no taxation without representation, and that Parliament cannot alter it.

But as this doctrine was held by their friends, and was of service to their cause until they were prepared for a total Independence, they appeared to approve it: As they have now no further occasion for it, they take no more notice of an act for imposing taxes than of many other acts; for a distinction in the authority of Parliament in any particular case, cannot serve their claim to a general exemption, which they are now preparing to assert.

For depriving us, in many cases, of the benefit of a trial by jury.

Offences against the Excise Laws, and against one or more late Acts of Trade, are determined without a Jury in England. It appears by the law-books of some of the Colonies, that offences against their Laws of Excise, and some other Laws, are also determined without a Jury; and civil actions, under a sum limited, are determined by a Justice of Peace. I recollect no cases in which trials by Juries are taken away in America, by Acts of Parliament, except such as are tried in the Courts of Admiralty, and these are either for breaches of the Acts of trade, or trespasses upon the King's woods. I take no notice of the Stamp Act, because it was repealed soon after it was designed to take place.

I am sorry, my Lord, that I am obliged to say, there could not be impartial trials by Juries in either of these cases. All regulation of commerce must cease, and the King must be deprived of all the trees reserved for the Royal Navy, if no trials can be had but by Jury. The necessity of the case justified the departure from the general rule; and in the reign of King William the Third, jurisdiction, in both these cases, was given to the Admiralty by Acts of Parliament; and it has ever since been part of the constitution of the Colonies; and it may be said, to the honour of those Courts, that there have been very few instances of complaint of injury from their decrees. Strange! that in the reign of King George the Third, this jurisdiction should suddenly become an usurpation and ground of Revolt.

For transporting us beyond seas to be tried for pretended offences.

I know of no Act, but that of the 12th of the present reign, to prevent the setting fire to his Majesty's Ships, Docks, Arsenals, &c. to which this article can refer.—But are these *pretended* offences?

By an Act of Parliament made in the 35th year of King Henry the Eighth, all treasons committed in any parts without the realm, may be tried in any county of England; and in the reign of Queen Anne, persons were condemned in England for offences against this Act in America; but the Act does not comprehend felonies.

The offences against the last Act are made felony; and as it is most likely they should be committed in times of faction and party-rage, the Act leaves it in the power of the Crown to order the trial of any offence committed without the realm, either in the Colony, Island, Fort, where it may be committed, or in any County within the Realm.

An opinion prevailed in America, that this Act was occasioned by the burning the King's Schooner, Gaspee, by the people in the Colony of Rhode Island; but the Act had passed before that fact was committed, though it was not generally known in America, until some months after. The neglect of effectual inquiry into that offence, by the authority in Rhode Island Colony, shews that the Act was necessary; but when it passed, there does not appear to have been any special view to America, more than to the forts and settlements in Europe, Asia, or Africa.

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary Government and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing it into their Colonies.

It would be impertinent to make any remarks upon the general fitness of the Quebec Act for the purposes for which it passed, seeing your Lordship has so lately fully considered and given your voice in it.

But what, my Lord, have the American Colonies to do with it? There are four New England Colonies: In two of them, both Governor and Council are annually elected by the body of the people; in a third, the Council is annually elected by the Assembly; in the fourth, both Governor and Council are appointed by the Crown: The three Charter Governments, for near a century

past, have never felt, nor had any reason to fear, any change in their constitutions, from the example of the fourth. Just as much reason have the Colonies in general to fear a change in their several constitutions, no two of which are alike, from the example of Quebec.

With as little reason may they complain of the enlargement of the boundaries of Quebec. It was time to include the ungranted territory of America in some jurisdiction or other, to prevent further encroachments upon it. What claim could any of the Colonies have to a territory beyond their own limits? No other security against an improper settlement of this country could have been made equally judicious and unexceptionable. This exception is therefore utterly impertinent, and seems to proceed from disappointment in a scheme for engrossing the greatest part of this ungranted territory.

For taking away our Charters, abolishing our most valuable laws, altering fundamentally the forms of our Governments.

For suspending our own legislatures and declaring themselves vested with power, to legislate for us in all cases whatsoever.

These two articles are so much of the same nature, that I consider them together. There has been no Colony Charter altered except that of Massachusetts's Bay, and that in no respect, that I recollect, except that the appointment and power of the Council are made to conform to that of the Council of the other Royal Governments, and the laws which relate to grand and petit juries are made to conform to the general laws of the Realm.

The only instance of the suspension of any legislative power is that of the Province of New York, for refusing to comply with an Act of Parliament for quartering the King's troops posted there for its protection and defence against the French and Indian enemies.

The exceptions, heretofore, have rather been to the authority of Parliament to revoke, or alter Charters, or legislative powers once granted and established, than to the injurious or oppressive use of the authority upon these occasions.

When parties run high, the most absurd doctrines if a little disguised, are easily received and embraced. Thus, because in the Reign of Charles the First, resistance to Taxes imposed by

the authority of the *King alone* was justifiable, and the contrary doctrine having taken the names of *Passive Obedience and Non-Resistance*, those terms became odious; therefore in the Reign of George the Third, resistance to Taxes imposed, by the *King, Lords and Commons*, upon America while not represented in Parliament, is justifiable also; and the contrary doctrine is branded with the odious terms of *Passive Obedience and Non-Resistance*; as if the latter case were analogous to the former. And because in the Reign of Charles the Second and James the Second, Royal Charters were deemed *sacred* and not to be revoked or altered at the will and pleasure of the *King alone*; therefore in the Reign of George the Third, they are *sacred* also and not to be revoked nor altered by the authority of *Parliament*.

The common people who, relying upon the authority of others, confound cases together which are so essentially different, may be excused; but what excuse, my Lord, can be made for those men, in England as well as in America, who, by such fallacies, have misguided the people and provoked them to rebellion?

He has abdicated Government here, by declaring us out of his protection and waging War against us.

He has plundered our Seas, ravaged our Coasts, burnt our Towns and destroyed the Lives of our People.

He is at this time, transporting large Armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized Nation.

He has constrained our fellow Citizens, taken captive on the high Seas, to bear arms against their Country, to become the executioners of their Friends and Brethren, or to fall themselves by their hands.

He has excited domestick insurrections amongst us and has endeavoured to bring on the Inhabitants of our frontiers the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

These, my Lord, would be weighty charges from a *loyal and dutiful* people against an *unprovoked* Sovereign: They are more than the people of England pretended to bring against King James the Second, in order to justify the Revolution. Never was

there an instance of more consummate effrontery. The Acts of a *justly incensed* Sovereign for suppressing a most *unnatural, unprovoked* Rebellion, are here assigned as the *causes* of this Rebellion. It is immaterial whether they are true or false. They are all short of the penalty of the laws which had been violated. Before the date of any one of them, the Colonists had as effectually renounced their allegiance by their deeds as they have since done by their words. They had displaced the civil and military officers appointed by the King's authority and set up others in their stead. They had new modelled their civil governments, and appointed a general government, independent of the King, over the whole. They had taken up arms, and made a public declaration of their resolution to defend themselves, against the forces employed to support his legal authority over them. To subjects, who had forfeited their lives by acts of Rebellion, every act of the Sovereign against them, which falls short of the forfeiture, is an act of favour. A most ungrateful return has been made for this favour. It has been improved to strengthen and confirm the Rebellion against him.

In every stage of these oppressions, we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury.

What these oppressions were your Lordship has seen, for we may fairly conclude, that every thing appears in this Declaration, which can give colour to this horrid Rebellion, so that these men can never complain of being condemned without a full hearing.

But does your Lordship recollect any petitions in the several stages of these pretended oppressions? Has there ever been a petition to the King

—To give his Assent to these wholesome and necessary Laws to which he had refused it?

—To allow his Governors to pass laws without a su[s]pending clause, or without the people's relinquishing the right of Representation?

—To withdraw his instructions for calling legislative bodies at unusual, uncomfortable and distant places?

—To allow Assemblies, which had been dissolved by his order, to meet again?

—To pass laws to encourage the migration of foreigners?

- To consent to the establishment of judiciary Powers?
- To suffer Judges to be independent for the continuance of their offices and salaries?
- To vacate or disannul new erected offices?
- To withdraw his troops *in times of peace*, until it appeared that the reason for it was to give a free course to Rebellion?

And yet these, my Lord, are all the oppressions pretended to have been received from the King, except those *in combination* with the two Houses of Parliament; and they are all either grossly misrepresented, or so trivial and insignificant as to have been of no general notoriety in the time of them, or mere contests between Governors and Assemblies, so light and transient, as to have been presently forgot. All the petitions we have heard of, have been against Acts of the Supreme Legislature; and in all of them something has been inserted, or something has been done previous to them, with design to prevent their being received.

They have petitioned for the repeal of a law, because Parliament had no right to pass it. The receiving and granting the prayer of such petition, would have been considered as a renunciation of right; and from a renunciation in one instance, would have been inferred a claim to renunciation in all other instances. The repealing, or refraining from enacting any particular laws, or relieving from any kind of service, while a due submission to the laws in general shall be continued, and suitable return be made of other services, seems to be all which the Supreme Authority may grant, or the people or any part of them, require. If any thing, my Lord, short of Independence was the redress sought for, all has been granted which has been prayed for, and could be granted.

A Prince, whose character is thus marked, by every act which defines the tyrant, is unfit to be the ruler of a free people.

Indignant resentment must seize the breast of every loyal subject. A tyrant, in modern language, means, not merely an absolute and arbitrary, but a cruel merciless Sovereign. Have these men given an instance of any one Act in which the King has exceeded the just Powers of the Crown as limited by the English Constitution? Has he ever departed from known established laws, and substituted his own will as the rule of his actions? Has there ever been a Prince by whom subjects in rebellion,

have been treated with less severity, or with longer forbearance?

Nor have we been wanting in attention to our British Brethren. We have warned them from time to time of attempts by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow those usurpations which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must therefore acquiesce in the necessity which denounces our separation and hold them as we hold the rest of mankind, Enemies in War, in Peace, Friends.

We therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the World, for the rectitude of our intentions, do in the name and by the authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies, are, and ought to be, Free and Independent States, and that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved, and that as free and Independent States they have full power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other, our Lives, our Fortunes and our sacred Honour. Signed by order and in behalf of the Congress.

JOHN HANCOCK, President.

They have, my Lord, in their late address to the people of Great Britain, fully avowed these principles of Independence, by declaring they will pay no obedience to the laws of the Supreme Legislature; they have also pretended, that these laws were the mandates or edicts of the Ministers, not the acts of a constitutional legislative power, and have endeavoured to persuade such as they called their British Brethren, to justify the

Rebellion begun in America; and from thence they expected a general convulsion in the Kingdom, and that measures to compel a submission would in this way be obstructed. These expectations failing, after they had gone too far in acts of Rebellion to hope for impunity, they were under the *necessity* of a separation, and of involving themselves, and all over whom they had usurped authority, in the distresses and horrors of war against that power from which they revolted, and against all who continued in their subjection and fidelity to it.

Gratitude, I am sensible, is seldom to be found in a community, but so sudden a revolt from the rest of the Empire, which had incurred so immense a debt, and with which it remains burdened, for the protection and defence of the Colonies, and at their most importunate request, is an instance of ingratitude no where to be paralleled.

Suffer me, my Lord, before I close this Letter, to observe, that though the professed reason for publishing the Declaration was a decent respect to the opinions of mankind, yet the real design was to reconcile the people of America to that Independence, which always before, they had been made to believe was not intended. This design has too well succeeded. The people have not observed the fallacy in reasoning from the *whole* to *part*; nor the absurdity of making the *governed* to be *governors*. From a disposition to receive willingly complaints against Rulers, facts misrepresented have passed without examining. Discerning men have concealed their sentiments, because under the present *free* government in America, no man may, by writing or speaking, contradict any part of this Declaration, without being deemed an enemy to his country, and exposed to the rage and fury of the populace.

I have the honour to be,

My LORD,

Your Lordship's most humble,
And most obedient servant.

To the Right Honourable }
the E—— of —— }

London, October, 15th. 1776.





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